

REMARKS

In an Office Action dated September 10, 2004, claims 8-12, all of the claims under consideration in the subject patent application were rejected. By amendment above, claim 8 has been rewritten for clarity. Support for the amendments to claim 8 can be found on page 2, line 28 - page 3, line 21 of the specification.

Reconsideration of this application and allowance of the claims is respectfully requested in view of the foregoing amendments and the following remarks.

The Examiner has rejected claims 8-12 of the pending application as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Examiner claim 8 recites a composition comprising a food and a health-promoting agent consisting essentially of polygalacturonides. The Examiner asserts that it is not clear if the health-promoting agent is the polygalacturonides or if the polygalacturonides is one of the ingredients in the health-promoting agent.

In response to the Examiner's rejection, applicants amended claim 8 to more clearly describe that the health-promoting agent consists essentially of polygalacturonides. Applicants submit that this amendment to claim 8 more clearly describes the subject matter in claims 8-12. Accordingly, withdrawal of the indefiniteness rejection is respectfully requested.

Claims 8-12 were rejected as being obvious over Bogentoft (US 4,191,744). The Examiner asserts that Bogentoft discloses the use of polygalacturonic acid to improve palatability, which preparations may also contain additional agents. Accordingly, the Examiner asserts that it would have been obvious to use the polygalacturonides in a composition which is a

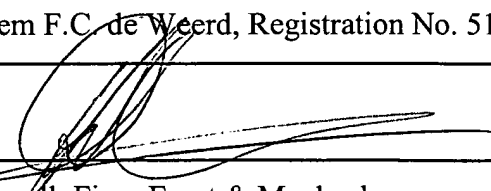
baby food or a beverage or a canned food to improve the taste of food. Further, according to the Examiner one of ordinary skill in the art would be motivated to do so since such compositions according to Bogentoft produce clear solutions and do not give pharmacological systemic effects, are well tolerated, and have good taste and consistency.

In light of the Examiner's comments with respect to joint inventors in consideration of patentability of the claims under 35 U.S.C. §103(a), applicants submit that the invention and all claims were commonly owned from the time of their invention. In response to the Examiner's rejection, the present invention is directed to a composition comprising a food and a health promoting agent. Bogentoft therefore teaches away from the present invention because, as the Examiner asserts, the compositions according to Bogentoft do not give a pharmacological systemic effect. In particular, Bogentoft only teaches compositions of non-crosslinked polyetheleneimide which neutralize gastric acid. Furthermore, Bogentoft does not disclose, teach or suggest a composition comprising a food and a health promoting agent wherein the health promoting agent comprises a certain type of polygalacturonide. The non-cross linked polyetheleneimide compositions according to Bogentoft neutralizing gastric acid, and further comprise a taste improving acid, which may be a polygalacturonide. However, polygalacturonides vary in length, and saturation, and individual monomers of the saccharide may be modified. The polygalacturonides used in a composition with a food in the present invention are health promoting agents. The health promoting property is conferred to the polygalacturonides of the present invention through the particular length, saturation, and modification of the monomers.

These characteristics arise from the particular method of preparation of the polygalacturonides of the present invention, which preparation method is not taught or suggested by Bogentoft. Bogentoft merely teaches the use of polygalacturonides to improve taste, a property which the polygalacturonides of the present invention also have. However, this property of improving taste is not unique to these polygalacturonides of the present invention, but can be found with various other polygalacturonides as well. Therefore, Bogentoft does not teach or suggest these particular polygalacturonides and does not teach or suggest the compositions comprising a food and a health promoting agent wherein the health promoting agent comprises essentially of these particular polygalacturonides as in the present application. Applicants submit that for these reasons the subject matter of claims 8 -12 is non-obvious in view of Bogentoft. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) over Bogentoft is respectfully requested.

Applicants submit that the present application is now in condition for allowance.

Reconsideration and favorable action are earnestly requested.

| RESPECTFULLY SUBMITTED, | | | | | |
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